THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.17332 of 2005

20.12.2005

Between:

Syed Shahbuddin, S/o.Syed Rafiuddin (died) and his L.Rs

… Petitioner

AND

The Government of Andhra Pradesh, rep by its Secretary,

Housing Department, Secretariat, Hyderabad

And another

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.17332 of 2005

ORDER:

Syed Shahbuddin, a retired Government servant, was allotted the house bearing No.575/A, MCH.No.11-5-171 admeasuring 153.86 Sq.yards at Nampally by the second respondent, namely, A.P. Housing Board (APHB, for brevity). After due payment of consideration amount by way of instalments, APHB executed a sale deed in favour of Syed Shahbuddin on 06.9.1982 and ever since he was in possession of the property. It appears, APHB decided to dispose of the vacant sites to the adjacent house allottees and that there is a vacant site admeasuring 89.09 Sq.yards adjacent to his house. The Government of Andhra Pradesh issued necessary guidelines in G.O.Ms.No.20, dated 11.6.1984 permitting APHB to sell the vacant land to the adjoining owners if it is less than 100 Sq.yards. On a request made by Syed Shahbuddin, APHB issued Proceedings dated 04.2.1983 requesting him to pay a sum of Rs.13,699/- at the rate of Rs.150/- per Sq.yard being the cost of 91.66 Sq.yards, which is adjacent to his house. He did not pay the amount.

Syed Shahbuddin again requested APHB on 14.6.2005 to allot the vacant site to him in accordance with G.O.Ms.No.38, dated 30.5.1997, which superceded earlier Government guidelines. After considering the request, APHB issued a letter dated 06.7.2005 requesting the allottee to pay a sum of Rs.6,23,830/- at the rate of Rs.7,000/- per Sq.yard. Aggrieved by the same, Syed Shahbuddin filed the present writ petition seeking invalidation of the letter dated 06.7.2005 and for a

consequential direction to the respondents to give effect to earlier offer dated 04.2.1983.

The writ petition was initially listed before this Court on 05.8.2005 but the learned Counsel for the petitioner sought time. Thereafter on many occasions time was sought. On 06.10.2005, this Court having heard the matter directed the case to be listed under the caption "For Judgment". Again when the case was called, it was brought to the notice of this Court by the learned Counsel for the petitioner that Syed Shahbuddin died and therefore, the matter was adjourned to enable the legal heirs to come on record. Accordingly, the wife and five children of late Syed Shahbuddin filed W.P.M.P.No.33218 of 2005 to come on record as legal heirs of deceased first petitioner, Syed Shahbuddin. The said application was allowed on 09.12.2005 and the matter was heard.

The learned Counsel for the petitioner contends that when the first petitioner made a request in 1983, APHB itself offered to sell the land at the rate of Rs.150/- per Sq.yard and therefore, it is highly arbitrary to demand at Rs.7,000/- per Sq.yard. He contends that if only the allottee had availed the offer in 1983, he could have got the land at Rs.150/- per Sq.yard. As he could not pay the amount, again in 2005, he requested APHB for allotment of the adjacent vacant site. According to the learned Counsel, the fixation of value of the land at Rs.7,000/- per Sq.yard is abnormal, highly irrational and arbitrary.

The first petitioner requested APHB in February 1983 to allot the vacant site adjacent to the house allotted to him. The same was accepted presumably in accordance with the guidelines issued by the Government. While communicating the offer, APHB requested the first petitioner to pay a sum of Rs.13,699/- including the cost of the land at the rate of Rs.150/- per Sq.yard within one month from the date of receipt of the said proceedings. He was also informed that if he failed to pay the amount, the said proceedings should be cancelled without any further notice. The proceedings dated 04.2.1983 issued by APHB insofar as the same is relevant reads as under.

> In case you have paid the amount as per the earlier sale letter you may give consent for registration of revised extent. The balance amount if any will be refunded to you.
>
> **If you fail to pay the above said amount within a month from the date of receipt of this proceedings the sale offer stands cancelled without any further notice. Payment of amount in instalments will not be accepted.**
>
> Non-judicial stamp papers worth Rs.700/- purchased in the name of the Estate Officer, A.P.Housing Board, Hyderabad duly typed along with schedule 'F' form may be presented.
>
> You should also submit the photostat copy or attested copy of the documents of the above house to prove ownership before payment of the above said amount.
>
> The earlier sale letter dated 20.9.1982 stands cancelled.
>
> (emphasis supplied)

On plain terms, the offer made by APHB was valid for a period of one months and therefore the petitioner cannot seek any Mandamus to enforce an offer made by APHB which stood cancelled. When the petitioner again requested APHB for allotment of the vacant site adjacent to his house it was incumbent on APHB to strictly follow the guidelines issued by G.O.Ms.No.38, dated 30.5.1997. There is no denial that as per the guidelines of said G.O., APHB is under obligation to dispose of the vacant sites to adjoining house allottees on preferential basis if the land is less than 100 Sq.yards at market value. In that view of the matter, this Court does not find any infirmity in the proceedings impugned in the writ petition. Writ petition is not a proper remedy to adjudicate a question as to whether the value of the land levied by the public authority for sale of the land is rational or irrational. As such the market value is always dependent on the demand and supply on the development of the area. The same cannot be a subject of conjecture or wild guess. Even otherwise, no evidence is placed before this Court to rule that the market value fixed by APHB is irrational or arbitrary.

The writ petition is devoid of any merit and is, accordingly, dismissed. No costs.

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(**V.V.S. RAO,J**)

.12.2005

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